

## BEFORE THE FEDERAL ELECTION COMMISSION

MUR: 8091

Harwell PAC

Government Of The People PAC

**RESPONSE**

Comes now Debra Y. Maggart, denies all allegations raised in the complaints in MUR 8091, and makes the following response to the Federal Election Commission (“Commission”) with respect to all complaints alleged in MUR 8091:

**Background**

1. Debra Y. Maggart serves as the Treasurer of Government Of The People (“GOTP”) PAC.
2. GOTP PAC was registered with the Federal Election Commission on July 20, 2022 as an Independent Expenditure-Only Political Committee (“IEOPC”), and from its inception, Debra Y. Maggart has served as its Treasurer.
3. During the period of July 1, 2022 through November 28, 2022, GOTP PAC raised a total of \$123,250.00 from fifteen (15) contributors.
4. During the period of July 1, 2022 through November 28, 2022, GOTP PAC disbursed a total of \$118,219.50. Disbursements were directed to three entities.
5. During the period of July 1, 2022 through November 28, 2022, GOTP PAC’s disbursements were primarily directed in support of Beth Harwell, a candidate for the United States House of Representatives (TN-05), and in opposition to Andy Ogles, also a candidate for the United States House of Representatives (TN-05).
6. Debra Y. Maggart neither is the Treasurer of the other Committees referred to in MUR 8091, nor does she have any involvement or communication with those Committees.

**GOTP PAC is an IEOPC and has not operated in coordination with a candidate or candidate committee**

7. Pursuant to 11 CFR 109.20, the Commission has developed a three-pronged test to determine if coordinated communications have occurred with respect to a particular Committee’s activities.

8. The first prong of the Coordinated Communications Test concerns payment. 11 CFR 109.21(a)(I) requires that a communication be paid for in whole or in part by a person or a committee other than the candidate, the candidate's authorized committee or the political party committee with whom the communication is coordinated. In this instance, GOTP PAC made disbursements between July 1, 2022 and November 28, 2022 and GOTP PAC is not the candidate or the candidate's authorized committee.
9. The second prong of the Coordinated Communications Test concerns content. In this instance, GOTP PAC made disbursements for the explicit support of Beth Harwell and the explicit opposition to Any Ogles.
10. The third prong of the Coordinated Communications Test concerns conduct. When one of the five conduct standards is satisfied and the first two prongs of the Coordinated Communications Test are also satisfied, the Commission finds the communication to be coordinated with the result that the communication is deemed an in-kind contribution to the candidate's committee rather than an independent expenditure.
  - a. If the person creating, producing or distributing the communication does so at the request or suggestion of a candidate, the candidate's authorized committee, political party committee or an agent of any of these, the conduct prong will be satisfied. In the present instance, the person(s) creating, producing or distributing the communication on behalf of GOTP PAC had no interaction with, no request from, and no suggestion from the candidate or any of the candidate's agents regarding the communications.
  - b. If a candidate, candidate committee, political party committee or an agent of any of these was "materially involved in decisions" regarding certain aspects of a public communication paid for by someone else, it will be deemed a coordinated communication. In the present instance, neither the candidate, the candidate's committee, nor an agent of any of these made had no material involvement in any decisions related to the communications. In fact, the candidate and the candidate's committee had absolutely no involvement or communications with GOTP PAC or the vendors producing involved in the disbursements.
  - c. A communication meets the substantial discussion conduct test if a communication is created, produced or distributed after one or more substantial discussions between the candidate and/or the candidate's committee and the person paying for the communication. In the present instance, there were absolutely no substantial discussions between GOTP PAC or its vendors and the candidate or the candidate's committee or its agents.
  - d. If a common vendor is used between the candidate or the candidate's committee and the person paying for the communication, it will satisfy the employment of a common vendor conduct test. In the present instance, common vendors were not utilized for the GOTP PAC disbursements.

- e. Finally, communications paid for by a person who has previously been an employee or an independent contractor of the candidate clearly identified in the communication will satisfy the former employee/independent contractor conduct test. In the present instance, GOTP PAC disbursements were authorized by the Treasurer who is not a former employee or independent contractor of the candidate or the candidate's committee.
11. While the GOTP PAC disbursements meet the first two prongs of the Coordinated Communications test, none of the specified conduct tests in the third prong of the test have been satisfied. As a result, there was no coordinated communications involved in the disbursements from GOTP PAC.

#### Contributions received by IEOPCs.

12. Consistent with *Citizen's United v. FEC*, 558 U.S. 310 (2010) and *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010), the Commission has recognized that "IEOPCs may solicit and accept unlimited contributions from corporations, labor organizations, political committees and individuals, but must follow the Act's registration and reporting requirements." Advisory Op. 2011-12.
13. Key to an IEOPCs status in soliciting and accepting unlimited contributions is the prohibition on IEOPCs coordinating communications or making contributions to federal candidate committees.
14. Additionally, while 52 U.S.C. 30125(e)(1) places certain restrictions on candidates for federal office and their ability to "solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act...", the restrictions are not similarly placed on IEOPCs.
15. GOTP PAC has properly registered, reported and complied with all aspects of the Act. It is permitted to accept unlimited contributions from corporations, labor organizations, political committees and individuals, which it has done.
16. Because GOTP PAC has not coordinated with any candidate or candidate committee, all of its disbursements have been properly categorized as independent expenditures as reflected in GOTP PAC's reporting to the Commission.

#### CONCLUSION

17. GOTP PAC has operated as an IEOPC during all relevant times, and has accepted unlimited contributions as permitted by federal law.
18. GOTP PAC has made disbursements independently and with no coordinated communication with any candidate or candidate committee.

19. GOTP PAC believes it has complied with all aspects of the Act, and has properly registered and reported on its operations with the Commission.

**Prayer for Relief**

Based on the foregoing, GOTP PAC respectfully requests that the Commission review this response and dismiss MUR 8091 and the underlying complaints thereto with no further action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ronnie L. Miller". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Ronnie L. Miller  
Frost Brown Todd LLP

Attorney for Government Of The People  
PAC